

**Letter of Findings: 01-20210064
Indiana Individual Income Tax
for the Tax Year 2019**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individuals provided sufficient documentation to support some, but not all, of the expenses claimed on their Schedule C for tax year 2019.

ISSUE

I. Indiana Individual Income Tax - Claimed Losses Adjustment.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; IC § 6-8.1-5-4; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Indiana Dep't of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayers protest the Department's assessment of individual income tax for 2019.

STATEMENT OF FACTS

Taxpayers are married individuals ("Husband" and "Wife") who live in Indiana. Husband operated a business as an independent writer in 2019. Taxpayers claimed losses related to husband's business on their 2019 federal income tax return. The losses claimed reduced Taxpayers' reported Federal Adjusted Gross Income below the income reported on their Wage and Tax Statements (W-2s). Taxpayers also filed an Indiana form IT-40 (Indiana Full-Year Resident Individual Income Tax Return) on which the reduced Federal Adjusted Gross Income was reported. The Indiana Department of Revenue ("Department") reviewed Taxpayers' filing and requested that Taxpayers provide documents to substantiate the business expenses claimed.

Taxpayers provided documentation to substantiate a portion of the expenses claimed and the Department subsequently disallowed the expenses for which Taxpayers provided no support. As a result, the Department concluded that Taxpayers owed additional Indiana and county income tax and assessed Taxpayers additional income tax, penalty, and interest. Taxpayers timely protested the assessment. An administrative hearing was conducted by telephone and this Letter of Findings results. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Claimed Losses Adjustment.

DISCUSSION

During the initial review of Taxpayers' 2019 return, the Department found that Taxpayers claimed business losses at the federal level totaling approximately \$27,000. The claimed losses reduced Taxpayers' income subject to Indiana and county income tax. Because Taxpayers failed to verify their business losses in response to DOR's request, the losses were disallowed. Taxpayers protested the Department's assessment of additional income tax, penalty, and interest. To support their position, Taxpayers provided invoices for certain business expenses and the corresponding bank account transaction history confirming the expenses were paid.

As a threshold issue, it is the Taxpayers' responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. . . . The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867

N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing . . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as the preceding audit, shall be entitled to deference.

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

Indiana mandates that every person who is subject to a listed Indiana tax must keep books and records, including all source documents, "so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks." IC § 6-8.1-5-4(a). "If the department reasonably believes that a person has not reported the proper amount of tax due, the [D]epartment shall make a proposed assessment of the amount of the unpaid tax on the basis of the best information available to the [D]epartment." IC § 6-8.1-5-1(b).

Taxpayers provided invoices that substantiated business losses claimed on their Schedule C for certain advertising and publishing expenses. The invoices detailed the goods and services purchased and Taxpayer provided the corresponding bank account transaction history confirming that the invoices were paid in tax year 2019.

However, Taxpayers did not provide any documentation to support the remaining losses claimed for office expenses, supplies, travel, utilities, and other expenses. Without verifiable source documents, which may "include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks" as required under IC § 6-8.1-5-4(a), Taxpayers have met their burden of proof under IC § 6-8.1-5-1(c) for some, but not all, of the transactions.

FINDING

Taxpayer's protest is sustained to the extent that Taxpayers provided adequate documentation to support business expenses claimed on Schedule C of their 2019 federal income tax return.

July 20, 2022

Posted: 05/03/2023 by Legislative Services Agency
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